IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1675 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

PRAVINBHAI J PATEL

Versus

STATE OF GUJARAT

Appearance:

MR SAURIN A SHAH for Petitioner

MR BD DESAI APP for Respondent No. 1

NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 16/06/2000

ORAL JUDGEMENT

Heard the learned counsel for the petitioner and the State. This petition under Article 226 of the

Constitution and/or under Section 482 of the Code of Criminal Procedure prays for quashing and setting aside the complaint filed by the Deputy Collector, Civil Supplies, Matar, which is registered as Crime Register No.II-62 of 1994 at Matar Police Station. The complaint states the date of the offence to be between 7.12.1984 to 25.1.1985 and the date of the first information to the police station is stated to be 6.5.1994, that is, after more than ten years of the date of the alleged offence. The offences complained about are stated to be violation of the provisions of Paragraphs 16, 23 and 24 of the Gujarat Essential Articles Order, 1981 punishable under Section 7 of the Essential Commodities Act, 1955. It is submitted that, under the provisions of Section 7 of the Essential Commodities Act, in case of any contravention of an order made with reference to clause (h) or clause (i) of sub-section (2) of Section 3, the maximum punishment which can be imposed is imprisonment for a term of one year and fine. Referring to Section 468 of the Code of Criminal Procedure, it is submitted that the period of limitation prescribed for taking cognizance of an offence punishable with imprisonment for a term not exceeding one year is one year. There is no controversy about the applicability of this provision to the facts of this case and, in view of this, it is submitted on behalf of the petitioner that the cognizance of the alleged offence is barred by limitation and the prosecution of the accused can under no circumstances result into his conviction. It is, therefore, submitted that the investigation by the police and presentation of report or chargesheet by the police can also not serve any purpose and hence the complaint and the F.I.R. are required to be quashed at the initial stage.

2. Looking to the facts and the submissions made as above, it appears to be clear that, for reasons best known to them, the Civil Supplies Department has filed the complaint in the police station after waiting for more than a decade and the Court would be barred from taking cognizance of the offence. It follows that the investigation of the alleged offence cannot serve any purpose and can only result in unnecessary harassment of the accused. The learned Additional Public Prosecutor has made a feeble attempt to suggest that, in the circumstances, the concerned Court shall not take cognizance of the offence and no order interfering with the process of law set into motion by the F.I.R. was required to be made. The learned advocate appearing for the petitioner has relied upon the judgment of the Hon'ble Supreme Court in the case of MADHAVRAO JIWAJI RAO SCINDIA AND ANOTHER v. SAMBHAJIRAO CHANDROJIRAO ANGRE

(AIR 1988 SC 709) and submitted that the legal process cannot be utilized for any oblique purpose and where in the opinion of the Court chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the Court may quash the proceedings even at a preliminary stage. This is a fit case to exercise the extraordinary powers of this Court to quash the complaint filed by the opponent No.2. Therefore, the application is allowed and the complaint is quashed. Rule is made absolute with no order as to costs.

(KMG Thilake)
#########